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Please find below and/or attached an Office communication concerning this application or proceeding.

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0	Application No.	Applicant(s)	'
	09/686,516	ARNETT ET AL.	
○ Office Action Summary	Examiner	Art Unit	_
•	Susanna M. Diaz	3623	
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet w	ith the correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a repl If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a y within the statutory minimum of thin will apply and will expire SIX (6) MON, cause the application to become Ai	reply be timely filed by (30) days will be considered timely. ITHS from the mailing date of this communication. BANDONED (35 U.S.C. § 133).	
Status			•
 Responsive to communication(s) filed on 18 N This action is FINAL. Since this application is in condition for alloware closed in accordance with the practice under E 	action is non-final. nce except for formal mat	•	
Disposition of Claims	•		
4) ☐ Claim(s) 1-74 is/are pending in the application 4a) Of the above claim(s) 6-11,15-38,42-47 an 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-5,12-14,39-41 and 48-50 is/are rejection is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	<u>d 51-74</u> is/are withdrawn f	rom consideration.	
Application Papers			
9) The specification is objected to by the Examine 10) The drawing(s) filed on 11 October 2000 is/are Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Ex	: a)⊠ accepted or b)⊡ c drawing(s) be held in abeyal tion is required if the drawing	nce. See 37 CFR 1.85(a). (s) is objected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119	•		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Bureau * See the attached detailed Office action for a list	s have been received. s have been received in A rity documents have been u (PCT Rule 17.2(a)).	pplication No received in this National Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	Paper No(Summary (PTO-413) S)/Mail Date nformal Patent Application (PTO-152)	

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DETAILED ACTION

1. This Non-Final Office action is responsive to Applicant's election filed November 18, 2004.

Applicant has elected to prosecute Species II (which includes claims 1-5, 12-14, 39-41, and 48-50) without traverse.

Claims 1-5, 12-14, 39-41, and 48-50 are presented for examination. All other claims stand as withdrawn.

Claim Rejections - 35 USC § 112

- The following is a quotation of the second paragraph of 35 U.S.C. 112:
 The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 3. Claims 3-5 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3-5 recite a system comprising a "message collector," "message categorizer," and "data analyzer." It is not clear whether these components refer to mere software or software expressly executed by hardware (e.g., a computer). A system requires at least two hardware elements; therefore, until the claims expressly recite at least two hardware elements, the recited "message collector," "message categorizer," and "data analyzer" are deemed to be software *per se*.

Claims 12-14 recite a system comprising a "message collector," "message processor," and "data analyzer." It is not clear whether these components refer to mere

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software or software expressly executed by hardware (e.g., a computer). A system requires at least two hardware elements; therefore, until the claims expressly recite at least two hardware elements, the recited "message collector," "message processor," and "data analyzer" are deemed to be software *per se*.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 2-5, 12-14, 39, 41, and 48-50 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

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Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

While claim 2 recites a useful, concrete, and tangible result, it does not expressly incorporate technology. For example, all of the steps could be performed manually by a human; therefore, claim 2 is deemed to be non-statutory.

Claims 3-5 recite a system comprising a "message collector," "message categorizer," and "data analyzer." It is not clear whether these components refer to mere software or software expressly executed by hardware (e.g., a computer). A system requires at least two hardware elements; therefore, until the claims expressly recite at least two hardware elements, the recited "message collector," "message categorizer," and "data analyzer" are deemed to be software *per se*, which is non-statutory. Please note that the recitation of a database in claim 4 is nominal and does not remedy the rejection under § 101.

Claims 12-14 recite a system comprising a "message collector," "message processor," and "data analyzer." It is not clear whether these components refer to mere software or software expressly executed by hardware (e.g., a computer). A system requires at least two hardware elements; therefore, until the claims expressly recite at least two hardware elements, the recited "message collector," "message processor," and "data analyzer" are deemed to be software *per se*, which is non-statutory.

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While claims 39 and 41 recite a useful, concrete, and tangible result, they do not expressly incorporate technology. For example, all of the steps could be performed manually by a human; therefore, claims 39 and 41 are deemed to be non-statutory.

While claims 48-50 recite a useful, concrete, and tangible result, they do not expressly incorporate technology. For example, all of the steps could be performed manually by a human; therefore, claims 48-50 are deemed to be non-statutory.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by eWatch Inc.'s eWatch service (eWatch), as disclosed in eWatch's archived web site retrieved from [URL: http://web.archive.org/web/19980522190526/www.ewatch.com].

(The various pages of the eWatch web site were archived by web.archive.org on May 22, 1998 and they include press releases dating back to 1995.)

eWatch discloses a system for collecting and analyzing electronic discussion messages comprising:

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[Claim 1] (a) a message collection system in communication with a plurality of predetermined electronic discussion forums, wherein the message collection system retrieves a plurality of message information from the plurality of pre-determined electronic discussion forums (Pages 37, 40);

- (b) a central data store in communication with the message collection system, wherein the message collection system stores the plurality of message information in the central data store for later retrieval (Pages 39, 40);
- (c) a message categorization system, wherein the plurality of message information is categorized according to a plurality of pre-determined rules (Pages 9, 23, 38).

eWatch discloses a method for collecting and analyzing electronic discussion messages, wherein the method comprises the steps of:

- [Claim 2] (a) collecting a plurality of message information from a plurality of predetermined electronic discussion forums (Pages 37, 40);
- (b) storing the plurality of message information in a central data store (Pages 39, 40);
- (c) categorizing the message information according to a plurality of predetermined rules (Pages 9, 23, 38);
- (d) assigning an opinion rating to the plurality of message information based on a plurality of pre-determined linguistic patterns and associative rules (Page 23 -- eWatch helps to identify both positive and negative opinions toward an entity. For example,

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"eWatch's proprietary search software does the first round of filtering, churning out reports based on keywords -- perhaps a client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms." Such a search would clearly identify negative opinion ratings toward the client based on a variety of linguistic patterns, i.e., the "client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms");

- (e) collecting a plurality of objective data from a plurality of objective data sources (Page 38 -- The identification of each message meeting the search criteria includes objective data such as date, time, and title of thread. The objective data sources would be the actual sites on which the messages were posted as opposed to the author of the message);
- (f) analyzing the message information and the objective data to identify trends in the pattern of behavior in pre-determined markets and the roles of participants in electronic discussion forums (Pages 23, 42-43); and
- (g) generating reports for end-users based on the results of the analyses performed by the present invention (Pages 5-6, 9, 37).

Claim Rejections - 35 USC § 103

- 8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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dated June 29, 2000.

9. Claims 3, 4, 12-14, 39, 40, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over eWatch Inc.'s eWatch service ("eWatch"), as disclosed in eWatch's archived web site retrieved from [URL:

http://web.archive.org/web/19980522190526/www.ewatch.com] in view of eWatch Inc.'s CyberSleuth service ("CyberSleuth"), as disclosed in the web site [URL: http://www.interesting-people.org/archives/interesting-people/200006/msg00090.html],

(The various pages of the eWatch web site were archived by web.archive.org on May 22, 1998 and they include press releases dating back to 1995.)

eWatch discloses a system for processing message traffic in a plurality of electronic discussion forums, comprising:

[Claim 3] a message collector for collecting messages from the plurality of electronic discussion forums (Pages 37, 40);

a message categorizer for processing the messages based on a series of topics (Pages 9, 23, 38);

[Claim 4] wherein the message collector communicates with a database storing configuration information for the plurality of electronic discussion forums, thereby enabling the message collector to collect messages corresponding to a plurality of message formats or communications protocols (Pages 2, 37, 40 -- Messages may be downloaded to eWatch's server from various Internet Usenet groups, ListServs, and consumer online services, such as CompuServe, America Online, Prodigy, and

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Microsoft Network, thereby implying that eWatch's server can handle a plurality of message formats or communications protocols).

As per claim 3, the eWatch service does not expressly teach a data analyzer for tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages; however, CyberSleuth is a related service offered by the same company, eWatch Inc. Similar to the eWatch service, the CyberSleuth service assists in addressing publicly disclosed negative opinions towards an entity. CyberSleuth, however, attempts "to identify the entity or entities behind the screen name(s) which have targeted your organization," which is especially important when the motives of such entities are fraudulent, deceptive, and/or criminal (¶ 6). CyberSleuth helps to mitigate such attacks by identifying the entity behind a pseudonym so that proper recourse can be taken, e.g., public rumor control or legal action. Since both eWatch and CyberSleuth function under the control of eWatch Inc. and both services assist clients in identifying negative attacks in order to mitigate the effect of such attacks, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to actively integrate the CyberSleuth service with the capabilities of the eWatch service (e.g., as a complete package), thereby incorporating a data analyzer for tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages, in order to conveniently provide clients with a more comprehensive service for

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identifying the sources of negative attacks and taking appropriate actions against those sources who may harbor more fraudulent, deceptive, and/or criminal intent.

eWatch discloses a system for processing message traffic in a plurality of electronic discussion forums, comprising:

[Claim 12] a message collector for collecting messages from the plurality of electronic discussion forums (Pages 37, 40);

a message processor for processing the messages according to a series of topics, wherein the message processor processes a message to compute a relevance of the message to at least one topic from the series of topics (Pages 9, 23, 38); [Claim 13] wherein the message processor processes the messages to compute an opinion for the message according to at least one topic (Page 23 -- eWatch helps to identify both positive and negative opinions toward an entity. For example, "eWatch's proprietary search software does the first round of filtering, churning out reports based on keywords -- perhaps a client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms");

[Claim 14] wherein the opinion is computed based on a textual analysis of the message (Page 23 -- eWatch helps to identify both positive and negative opinions toward an entity. For example, "eWatch's proprietary search software does the first round of filtering, churning out reports based on keywords -- perhaps a client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms." Such a search would clearly identify negative opinions toward the client based on a textual analysis of

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the message, i.e., the "client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms").

As per claim 12, the eWatch service does not expressly teach a data analyzer for tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages; however, CyberSleuth is a related service offered by the same company, eWatch Inc. Similar to the eWatch service, the CyberSleuth service assists in addressing publicly disclosed negative opinions towards an entity. CyberSleuth, however, attempts "to identify the entity or entities behind the screen name(s) which have targeted your organization," which is especially important when the motives of such entities are fraudulent, deceptive, and/or criminal (¶ 6). CyberSleuth helps to mitigate such attacks by identifying the entity behind a pseudonym so that proper recourse can be taken, e.g., public rumor control or legal action. Since both eWatch and CyberSleuth function under the control of eWatch Inc. and both services assist clients in identifying negative attacks in order to mitigate the effect of such attacks, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to actively integrate the CyberSleuth service with the capabilities of the eWatch service (e.g., as a complete package), thereby incorporating a data analyzer for tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages, in order to conveniently provide clients with a more comprehensive service for

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identifying the sources of negative attacks and taking appropriate actions against those sources who may harbor more fraudulent, deceptive, and/or criminal intent.

eWatch discloses a method for processing message traffic in a plurality of electronic discussion forums, comprising the steps of:

[Claim 39] collecting messages from the plurality of electronic discussion forums (Pages 37, 40);

processing the messages based on a series of topics (Pages 9, 23, 38);

[Claim 40] storing configuration information for the plurality of electronic discussion forums in a database, and wherein the step of collecting messages comprises collecting messages corresponding to a plurality of message formats or communications protocols (Pages 2, 37, 40 -- Messages may be downloaded to eWatch's server from various Internet Usenet groups, ListServs, and consumer online services, such as CompuServe, America Online, Prodigy, and Microsoft Network, thereby implying that eWatch's server can handle a plurality of message formats or communications protocols).

As per claim 39, the eWatch service does not expressly teach tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages; however, CyberSleuth is a related service offered by the same company, eWatch Inc. Similar to the eWatch service, the CyberSleuth service assists in addressing publicly disclosed negative opinions towards an entity.

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CyberSleuth, however, attempts "to identify the entity or entities behind the screen name(s) which have targeted your organization," which is especially important when the motives of such entities are fraudulent, deceptive, and/or criminal (¶ 6). CyberSleuth helps to mitigate such attacks by identifying the entity behind a pseudonym so that proper recourse can be taken, e.g., public rumor control or legal action. Since both eWatch and CyberSleuth function under the control of eWatch Inc. and both services assist clients in identifying negative attacks in order to mitigate the effect of such attacks, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to actively integrate the CyberSleuth service with the capabilities of the eWatch service (e.g., as a complete package), thereby incorporating the step of tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages, in order to conveniently provide clients with a more comprehensive service for identifying the sources of negative attacks and taking appropriate actions against those sources who may harbor more fraudulent, deceptive, and/or criminal intent.

eWatch discloses a method for processing message traffic in a plurality of electronic discussion forums, comprising the steps of:

[Claim 48] collecting messages from the plurality of electronic discussion forums (Pages 37, 40);

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processing the messages according to a series of topics and computing a relevance of the messages to at least one topic from the series of topics (Pages 9, 23, 38);

[Claim 49] wherein processing step further comprises the step of computing an opinion for the message according to the at least one topic (Page 23 -- eWatch helps to identify both positive and negative opinions toward an entity. For example, "eWatch's proprietary search software does the first round of filtering, churning out reports based on keywords -- perhaps a client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms");

[Claim 50] wherein the step of computing an opinion comprises the step of performing a textual analysis of the message (Page 23 -- eWatch helps to identify both positive and negative opinions toward an entity. For example, "eWatch's proprietary search software does the first round of filtering, churning out reports based on keywords -- perhaps a client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms." Such a search would clearly identify negative opinions toward the client based on a textual analysis of the message, i.e., the "client's name combined with 'boycott,' 'angry,' or even cruder denigrating terms").

As per claim 48, the eWatch service does not expressly teach tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages; however, CyberSleuth is a related service offered by the same company, eWatch Inc. Similar to the eWatch service, the CyberSleuth service

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assists in addressing publicly disclosed negative opinions towards an entity. CyberSleuth, however, attempts "to identify the entity or entities behind the screen name(s) which have targeted your organization," which is especially important when the motives of such entities are fraudulent, deceptive, and/or criminal (¶ 6). CyberSleuth helps to mitigate such attacks by identifying the entity behind a pseudonym so that proper recourse can be taken, e.g., public rumor control or legal action. Since both eWatch and CyberSleuth function under the control of eWatch Inc. and both services assist clients in identifying negative attacks in order to mitigate the effect of such attacks, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to actively integrate the CyberSleuth service with the capabilities of the eWatch service (e.g., as a complete package), thereby incorporating the step of tracking a plurality of pseudonyms posting in the plurality of electronic discussion forums based on the processing of the messages, in order to conveniently provide clients with a more comprehensive service for identifying the sources of negative attacks and taking appropriate actions against those sources who may harbor more fraudulent, deceptive, and/or criminal intent.

10. Claims 5 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over eWatch Inc.'s eWatch service ("eWatch"), as disclosed in eWatch's archived web site retrieved from [URL: http://web.archive.org/web/19980522190526/www.ewatch.com] in view of eWatch Inc.'s CyberSleuth service ("CyberSleuth"), as disclosed in the web site [URL: <a href="http://www.interesting-people.org/archives/interesting-

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people/200006/msg00090.html], dated June 29, 2000, as applied to claims 3 and 39 above respectively, and *further in view of* Cohen (U.S. Patent No. 6,067,539).

(The various pages of the eWatch web site were archived by web.archive.org on May 22, 1998 and they include press releases dating back to 1995.)

[Claims 5, 41] Neither the eWatch service nor the CyberSleuth service expressly teaches the use of a relevance score per se as part of the determination of relevance of a message; however, Cohen makes up for this deficiency in his teaching of a system and method for identifying the most relevant sources for a particular topic. Similar to eWatch, Cohen's invention downloads messages (e.g., from web sites or news groups) and performs linguistics analysis to correlate certain keywords and synonyms thereof to a topic of interest; a score representative of the level of correlation is then generated (col. 2, lines 8-28, 45-47; col. 3, lines 1-45; col. 4, lines 5-14, 47-50; col. 6, line 67 through col. 7, line 12). Based on frequency statistics, a neural network, pattern recognition, an image processing, thesaurus, or another linguistics-based algorithm, a matching score is generated and evaluated to identify those messages deemed to be most relevant to the topic of interest (col. 8, lines 1-48; col. 9, lines 15-31). Cohen's invention is established as addressing a need for ranking information on a topic of interest, "thereby increasing the efficiency of information search and retrieval" (col. 1, lines 59-67). Since eWatch and Cohen are both directed toward identifying the most relevant messages (filtered from an incredibly large body of information) to a topic of interest, the Examiner asserts that it would have been obvious to one of ordinary skill in

the art at the time of Applicant's invention to adapt eWatch's message categorizer to compute at least one relevance score for a message, the relevance score providing a measure of the relevance of the message to at least one topic from the series of topics (as taught by Cohen), in order to increase the efficiency of eWatch's information search and retrieval system (as suggested in col. 1, lines 59-67 of Cohen).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references disclose details of NetCurrents, Inc.'s Internet message monitoring system:

Gonzalez et al. (U.S. Patent No. 6,260,041)

NetCurrent's web site, retrieved from [URL:

http://web.archive.org/web/20000622024845/www.netcurrents.com] on January 17, 2005, archived on June 22, 2000 and September 18, 2004.

The following references disclose various types of systems for retrieving relevant messages/documents:

Balabanovic et al. (U.S. Patent No. 6,782,393)

Pollack et al. (U.S. Patent No. 6,546,390)

Pollack et al. (U.S. Patent No. 6,571,238)

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

January 24, 2005

SUSANNA M. DIAZ PRIMARY EXAMINER